

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture adopted Section 3664, 3665, 3666, 3667, 3668, and 3669 of the regulations in Title 3 of the California Code of Regulations pertaining to the Grapevine Loss Assistance Program as an emergency action. The Department proposes to continue the regulations as adopted.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before July 8, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to promote and protect the agricultural industry in California (Food and Agricultural Code, Section 401). Existing law also provides for the creation of programs within the Department for eradication of Pierce's disease and its vector, the glassy-winged sharpshooter (Food and Agricultural Code, Sections 6045 through 6047). Stats. 2002, AB1242, appropriates funds to the Department for distribution to grape growers for vine loss compensation, in accordance with criteria established by the Department.

Sections 3664, 3665, 3666, 3667, 3668, and 3669 established the Grapevine Loss Assistance Program including the purpose, application process, eligibility criteria, application review and eligibility determination, payment criteria, and appeal/hearing procedures. This program will provide a maximum aggregate \$7.14 million in payments to eligible vineyard owners who incur losses due to Pierce's disease spread by the glassy-winged sharpshooter. The effect of the regulation is to provide authority for the State to compensate eligible vineyard owners to assist California's agricultural industry. There are no existing, comparable federal regulations or statutes.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Sections 3664 through 3669 do impose a mandate on local agencies, but not on school districts. Reimbursement will be made for costs resulting from this mandate from the \$357,000 (maximum) allocated for this purpose.

The Department has also determined that the regulation will involve no additional costs or savings to any state agency because funds for state costs are already appropriated, no nondiscretionary costs or savings to local

agencies or school districts, no reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code, funds for reimbursement for costs to local agencies have already been appropriated, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the changes in the regulations on a representative private person or business is not expected to be significantly adverse. A representative person or business should incur no costs to be in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department adopted Sections 3664-3669 pursuant to the authority vested by Section 407, Food and Agricultural Code of California, and Stats. 2002, AB1242, Chapter 18, (An Act Relating to the Glassy-winged Sharpshooter).

REFERENCE

The Department adopted Sections 3664-3669 to implement, interpret and make specific Stats. 2002, AB1242, Chapter 18, (An Act Relating to the Glassy-winged Sharpshooter); Sections 6045 through 6047,

Food and Agricultural Code; (Section 3669 only) Sections 11425.50 and 11440.10, Government Code; Section 1084 *et seq.*, Code of Civil Procedure.

EFFECT ON SMALL BUSINESS

The adoption of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Barbara J. Hass, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: bhass@cdfa.ca.gov. In her absence, you may contact Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Barbara J. Hass.

INTERNET ACCESS

The Department has posted on its Internet website (www.cdfa.ca.gov/plant/index.html) the information regarding this proposed regulatory action. Select "Proposed Changes in Regulations for Plant Health and Pest Prevention Services" and then section number(s).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

DEPARTMENT OF FOOD AND AGRICULTURE

May 14, 2001
Date

Special Assistant
Permits and Regulations